

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268

In the Matter of:)
Woodgate, New York 13494)

Docket No: A2011-70

Petitioners:)
Woodgate Citizens Committee)
and John B. Isley, William Karn)
and Walter Paprock, Individually)

PETITIONERS BRIEF AND STATEMENT

IN SUPPORT OF THEIR PETITION FOR APPEAL AND SUSPENSION

1. Petitioners are appealing the Postal Service's Final Determination concerning the Woodgate New York (13494) post office. The final determination was posted August 24, 2011. The Postal Regulatory Commission assigned docket number and Notice and order accepting appeal and establishing procedural schedule on September 15, 2011.

2. The petitioners have established standing in this appeal and hereby in accordance with applicable law, 39USC 404(d) (5), the petitioners request the Postal Regulatory Commission (PRC) to review the Postal Service's determination on the basis of the record before the USPS in the making of the determination.

3. The action by the USPS was premeditated, arbitrarily and capriciously enacted because it ignored Title 39, Part 1, Chapter 1 Section 101 postal policy that states in sub-paragraph (b) the pertinent part that, "The Postal Service shall provide a maximum degree of effective service and regular postal service to rural areas, communities and small towns where post offices are not self-sustaining. It is the petitioner's contention that the final determination order signed August 22, 2011 by Dean J. Granholm, Vice President of delivery and Post Office Operations shows a failure to sustain the burden of proof that the above cited section was not violated. Furthermore, said order, states that the Postmaster's position became vacant on October 02, 2009 and the Postmaster's position was replaced with an officer in charge position. The Postal Service claims savings of \$44,279 for non replacement of a postmaster's salary and benefits, but fails to allow for the Officer in Charge salary which has been utilized since 2009 at a lower amount than that of a postmaster. Savings cannot be considered as such since that OIC will be transferred in the system and the salary savings cited cannot be effected as savings to the Postal Service by closure. The practice of characterizing the salaries and benefits of reassigned employees as savings has previously been questioned by the commission - advisory opinion at 58-59; and commission comments 7-8. Thereby, the Economic Savings section of the final determination order is seriously flawed. The order also calls for replacement of service by extending service by rural route. The Postal Service failed to weigh the significant probability of financial loss by closure of an "income producing facility" and replacing it with a "non- income producing rural route service. The Postal Service's own economic calculations indicated a cost of extending rural route service to be \$14,986.67 but again failed to calculate mileage into the equation, thereby further creating more flawed and "self serving" economic numbers. The economic numbers are unsupported by the evidence on the record.

4. In preparing this brief, petitioners have been severely handicapped by USPS having redacted virtually all business financial records in submitting its administrative record on September

28, 2011. The USPS claims "non-public status" and the act of congressional inquiry obtained the rural route cost analysis. The petitioners claim that the Postal Service arbitrarily and capriciously refused to provide information of the public meeting, financial data and information other than that which is self serving to the Postal Service and not the benefit of the patrons of Woodgate (13494).

5. The USPS failed to meet its burden of proof based on information obtained in the course of this discontinuance study, the Postal Service concludes this final determination will not adversely affect the community when in fact the official record clearly shows that the community will be harmed by this action. The Postal Service provided computer generated responses to the communities concerns and in many times in a callous fashion using the Change Suspension Discontinuance Center (CSDS) software program. In the Matter of Woolsey, Georgia Docket A82-1, May 14, 1982 at 7 and in the Matter of Lone Grove Docket A79-1, May 7, 1979 at 10,13,and 16.. the Commission concluded that the Postal Service is required, as a matter of law, to make an independent inquiry into non postal effects of closings and must demonstrate that such inquiry was made including the business, economic and social effects on the community of Woodgate. The petitioners claim that the official record filed with the commission failed to include 52 letters from the Woodgate business community opposing the closure. The forty two businesses and ten non-profit organizations employ a total of 115 people. Each one is a small owner operated service with an average staff of 2.7 persons. The business letters were missing from the "official record" filed with the commission being list number 38-pages 191-242. Therefore, by the postal service's own admission in the final determination order that "no adverse effects would occur", failure to include the full record shows that adverse effects on the economics of the area do in fact exist. In fact denying "no impact on the community" is completely contrary to the record which is replete with numerous complaints and objections from the patrons and business community claiming hardships.

6. The Postal Service's responses to customer concerns and surveys filed in the Woodgate official record can also be found in the appeal of the Minneapolis, N.C. (28652) closing- Docket Number A2011-31. The computer generated responses shows a blatant lack of understanding of the communities the USPS serves and proves beyond reasonable doubt that an independent inquiry into the community of Woodgate was not done in accordance with the above cited opinions. This action will cause undue hardship upon the patrons of Woodgate New York (13494). Such hardships were made very clear to the Postal Service during their "survey campaign", but were ignored in the favor of questionable "economic savings" and their failure to appoint a postmaster to provide the maximum degree of effective service. The failure by USPS to appoint a postmaster to Woodgate 13494 is the sole negligence of the USPS to advertise the position and to again provide the community with the same maximum degree of service that the community had prior to 2009 and for the last one hundred thirty one years.

7. It is apparent that the immediate focus on closing of rural post offices and that of Woodgate (13494) is a biased and prejudiced decision by the USPS. If they, in fact, had done an assessment of urban vs rural postal services they would have discovered that urban areas provide a broad array of postal and shipping services, while rural areas lack at times basic internet and cellular services and depend on their community post office for payment of bills, shipping, and providing a support system to the needy. The USPS's decision to target rural offices such as Woodgate violates the rural community's businesses and peoples rights that are guaranteed in Title 39 USC 101: US Code- Section 101 which requires the same fundamental level of service to people whether they live in rural or metropolitan areas. The failure of the postal service to abide by this regulation is discriminatory and prejudicial to rural America and to Woodgate (13494) which serves two-thirds of the Town of Forestport's year around population of 1571 citizens. USPS's actions will escalate the decline and destruction of rural communities social and economic function in violation of Title 39 postal policy.

8. The timeline of closure of Woodgate (13494) shows clearly a premeditated, arbitrarily and capriciously enacted action to reach their predetermined goal of "final determination to close". USPS cited in the "official record" the retirement of a postmaster on October 2, 2009. This petitioner provided documents in Exhibit 2 of our petition that the postal service executed a 60 day termination clause in the landlord's lease on November 18, 2009 after maintaining said lease without said clause for a thirteen year period. In their order of proposal to close Woodgate Post Office and extend rural route service dated May 25, 2011, the statement under Section 11. Effect on Community, the order states Businesses and organizations include: none; showing the postal services failure to weigh the social and economic effects of the community and that their decision of closure had been made at that time and that time was, in fact October 2, 2009, not May 25, 2011.

Summary of Arguments by Petitioners

Petitioner herein argues:

(1) that the Postal Services arbitrarily and capriciously violated Title 39 U.S.C. 404 (d) (5) by providing flawed economic and social information entered as "official record" or failure to include pertinent information into the "official record"

(2) the Postal Service did not present adequate or correct evidence to justify the closure.

(3) the Postal Service is prejudiced in closing of rural offices such as (13494).

(4) the Postal Service had a predetermined outcome prior to weighing the evidence and issuing their final determination order.

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